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HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No.204 of 2001

APPELLANT: Rajaram, S/o Dholwa Gond,
aged 55 years, R/o Village Bagrel,
P.S. Dabhra,
Distt. Janjgir-Champa (C.G.)

- Versus -

RESPONDENT: State of Chhattisgarh,
Through District Magistrate,
Janjgir-Champa.

{Appeal under Section 374 (2) of the Criminal Procedure Code}

Appearance:

Mr. Govind Ram Miri, counsel for the appellant.

Mr. Akhil Mishra, Panel Lawyer for the State/respondent.

Division Bench: **Hon'ble Mr. L.C. Bhadoo and**
Hon'ble Mr. Sunil Kumar Sinha, JJ.

JUDGMENT

(Delivered on 02 July, 2007)

The following judgment of the Court was delivered by **L.C. Bhadoo, J.**: -

1. This appeal is directed against the judgment of conviction and order of sentence dated 24th January, 2001 passed by the Additional Sessions Judge, Sakti, in Sessions Trial No.373/2000, whereby learned Additional Sessions Judge after holding the accused/appellant guilty under Section 302 of the I.P.C. for committing the murder of his wife Gauri Bai, sentenced him to undergo imprisonment for life and to pay a fine of Rs.1,000/-, in default of payment of fine to further undergo imprisonment for one month.

2. Case of the prosecution, in brief, is that on 17-6-2000 at about 3.30 p.m. Gauri Bai, wife of the accused, aged about 45 years, R/o Village: Bagrel was found dead in her house. As per the prosecution case, there was dispute

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between husband & wife, therefore, deceased Gauri Bai had gone to her maternal house, the accused went to his in-law's house, the matter was compromised on 1-4-1999 and in pursuance of that, the accused brought back his wife. The accused was suspecting the fidelity of his wife that his wife is having illicit relations with one Dhoomdas Rawat. On the fateful day, in the morning at about 7 a.m. Mongrabai saw that Gauri Bai was sitting at the gate of her house. Thereafter, at about 9 a.m. the deceased took buffalo for grazing and the accused had gone for work. The accused returned at about 3 p.m. He saw that his wife was cooking vegetable, seeing this, he became angry, pressed her neck and inflicted injuries on her chest with a chopper (कत्ता). After committing the murder of Gauri Bai, the accused went to tube well for washing his hands & Dhoti. After returning to his house, he informed his brother Ratiram through Babulal (PW-17) that his wife died on account of electrocution. In turn, Ratiram gave merg intimation (Ex.P-1) to Police Station: Janjgir-Champa.

3. The Investigating Officer took up investigation and came to the house of the accused from where he seized chopper, sickle & nail of the accused. After giving notice Ex.P-3 to the Panchas, inquest Ex.P-4 was prepared on the body of Gauri Bai. Panchnama of search of the house Ex.P-5 was prepared, one sickle stained with blood was seized under Ex.P-6, one chopper stained with blood was seized under Ex.P-7 and one Dhoti of the accused was seized under Ex.P-8. Tape recorder, sound box and one wire with switchboard were seized under Ex.P-9. One winnowing basket stained with blood was seized under Ex.P-11. Four matchbox sticks and one plastic jerrican with 200 gms. of kerosene oil were seized under Ex.P-10. Blood stained soil, plain soil, half burnt blouse and clothes were seized under Ex.P-12 from the place of occurrence. Ikrarnama Ex.P-2 was seized under Ex.P-13. One spectacle of the deceased was seized under Ex.P-14. Site plan of the place of occurrence Ex.P-15 was prepared. The body of Gauri Bai was sent for post-mortem examination to Community Health Centre, Dabhra under Ex.P-2 where Dr. N.P. Mishra & Dr. Anita Shrivastava conducted post-mortem on the body of Gauri Bai and opined that cause of death seems to be on account of shock due to

burn during unconscious position, due to pressure over neck and haemorrhage due to injury. The nature of death is homicidal. Sickle & chopper were sent to the doctor for examination under Ex.P-24 who prepared the report Ex.P-25. Dehati Nalishi Ex.P-31 was submitted by the Investigating Officer and based on that first information report Ex.P-32 for commission of offence under Sections 302 & 201 of the I.P.C. was registered.

4. After completion of investigation, charge sheet was filed in the Court of Additional Chief Judicial Magistrate, Sakti, who in turn committed the case to the Sessions Judge, Bilaspur, from where learned Additional Sessions Judge, Sakti received the case on transfer for trial.

5. The prosecution in order to establish charge against the accused examined 37 witnesses. Statement of the accused was recorded under Section 313 of the Cr.P.C. in which he admitted that there was dispute between him and his wife. He also admitted that he saw spots of kerosene on the head of his wife. He further admitted that Panchnama was prepared and his house was searched. He also admitted that there were burn injuries on the body of his wife.

6. Learned Additional Sessions Judge, after hearing the arguments of counsel for respective parties, convicted and sentenced the accused under Section 302 of the I.P.C. as aforementioned, however, acquitted the accused of charge under Section 201 of the I.P.C.

7. We have heard Mr. Govind Ram Miri, learned counsel for the appellant and Mr. Akhil Mishra, learned Panel Lawyer on behalf of the State/respondent.

8. In this case, there is no ocular or direct evidence in order to connect the accused with the crime in question. Whole case rests on the circumstantial evidence. In order to connect the accused with the crime in question based on the circumstantial evidence, the prosecution is required to establish complete chain of the circumstantial evidence.

9. In catena of judgments law laid down by the Apex Court is that where a case rests squarely on circumstantial evidence, the inference of guilt can be

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justified only when all the incriminating facts and circumstances are found to be incompatible with the innocence of the accused or the guilt of any person (Hukam Singh vs. State of Rajasthan, AIR 1977 SC 1063; Eradu vs. State of Hyderabad, AIR 1956 SC 316; Earabhadrappa vs. State of Karnataka, AIR 1983 SC 446; State of U.P. vs. Sukhbasi, AIR 1985 SC 1224; Balwinder Singh vs. State of Punjab, AIR 1987 SC 350 and Ashok Kumar Chatterjee vs. State of M.P., AIR 1989 SC 1890). The circumstances from which an inference as to the guilt of the accused is drawn have to be proved beyond reasonable doubt and have to be shown to be closely connected with the principle fact sought to be inferred from those circumstances. In **Bhagat Ram vs. State of Punjab (AIR 1954 SC 621)** it was laid down that where the case depends upon the conclusion drawn from circumstances, the cumulative effect of the circumstances must be such as to negative the innocence of the accused and bring home the offences beyond any reasonable doubt.

10. We may also make a reference to a decision of the Apex Court in the matter of ***C. Chenga Reddy vs. State of A.P.*** **{1996 (10) SCC 193}** wherein it has been observed thus:

> "21. In a case based on circumstantial evidence, the settled law is that the circumstances from which the conclusion of guilt is drawn should be fully proved and such circumstances must be conclusive in nature. Moreover, all the circumstances should be complete and there should be no gap left in the chain of evidence. Further, the proved circumstances must be consistent only with the hypothesis of the guilt of the accused and totally inconsistent with his innocence."

11. In **Padala Veera Reddy vs. State of A.P. (AIR 1990 SC 79)** it was laid down that when a case rests upon circumstantial evidence, such evidence must satisfy the following tests:

(1) the circumstances from which an inference of guilt is sought to be drawn, must be cogently and firmly established;

(2) those circumstances should be of a definite tendency unerringly pointing towards guilt of the accused;

(3) the circumstances, taken cumulatively, should form a chain so complete that there is no escape from the conclusion that within all human probability the crime was committed by the accused and none else; and

(4) the circumstantial evidence in order to sustain conviction must be complete and incapable of explanation of any other hypothesis than that of guilt of the accused and such evidence should not only be consistent with guilt of the accused but should be inconsistent with his innocence.

12. In **State of U.P. vs. Ashok Kumar Srivastava (1992 Cri LJ 1104)** it was pointed out that great care must be taken in evaluating circumstantial evidence and if the evidence relied on is reasonably capable of two inferences, the one in favour of the accused must be accepted. It was also pointed out that the circumstances relied upon must be found to have been fully established and the cumulative effect of all the facts so established must be consistent only with the hypothesis of guilt.

13. In **Hanumant Govind Nargundkar vs. State of M.P. (AIR 1952 SC 343)** it was observed thus:

> "It is well to remember that in cases where the evidence is of a circumstantial nature, the circumstances from which the conclusion of guilt is to be drawn should be in the first instance be fully established, and all the facts so established should be consistent only with the hypothesis of the guilt of the accused. Again, the circumstances should be of a conclusive nature and tendency and they should be such as to exclude every hypothesis but the one proposed to be proved. In other words, there must be a chain of evidence so far complete as not to leave any reasonable ground for a conclusion consistent with the innocence of the accused and it must be such as to show that within all human probability the act must have been done by the accused."

14. A reference may be made to a decision in **Sharad Birdhichand Sarda vs. State of Maharashtra (AIR 1984 SC 1622)**. Therein, while dealing with circumstantial evidence, it has been held that the onus was on the prosecution to prove that the chain is complete and the infirmity of lacuna in the

prosecution cannot be cured by a false defence or plea. The conditions precedent in the words of this Court, before conviction could be based on circumstantial evidence, must be fully established. They are:

(1) the circumstances from which the conclusion of guilt is to be drawn should be fully established. The circumstances concerned must or should and not may be established;

(2) the facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty;

(3) the circumstances should be of a conclusive nature and tendency;

(4) they should exclude every possible hypothesis except the one to be proved; and

(5) there must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused.

15. In **Dhananjoy Chatterjee vs. State of W.B.** reported in **(1994) 2 SCC 220** the Apex Court held that:

> "In a case based on circumstantial evidence, the circumstances from which the conclusion of guilt is to be drawn have not only to be fully established but also that all the circumstances so established should be of a conclusive nature and consistent only with the hypothesis of the guilt of the accused. Those circumstances should not be capable of being explained by any other hypothesis except the guilt of the accused and the chain of the evidence must be so complete as not to leave any reasonable ground for the belief consistent with the innocence of the accused. It needs no reminder that legally established circumstances and not merely indignation of the court can form the basis of conviction and the more serious the crime, the greater should be the care taken to scrutinize the evidence lest suspicion takes the place of proof."

16. In the present case, the prosecution has tried to establish the crime against the accused, who is husband of deceased Gauri Bai, based on the following circumstances: -

1. That, relations between the accused and the deceased were strain.
2. That, the accused was doubting the fidelity of his wife Gauri Bai.
3. That, the death of Gauri Bai was homicidal.
4. That, weapon of offence, blood stained soil, blood stained winnowing basket and blouse were seized form the place of occurrence by the Investigating Officer.
5. That, Gauri Bai received homicidal injuries in the house. The accused did not offer any explanation as to how Gauri Bai sustained homicidal injuries on her body, on the contrary, he gave false explanation that his wife died on account of electrocution.

First circumstance

17. As far as this circumstance is concerned, Ramlal (PW-2) has stated in his evidence that on account of strained relationship between the accused and his wife, one year back Gauri Bai had gone to her parent's village, she was residing there. Thereafter, the matter was compromised and Gauri Bai was brought back to the house of the accused pursuant to a compromise arrived between the two. Rajaram, the accused/appellant, and Gauri Bai entered into an agreement Ex.P-2 that with effect from 1-4-1999 they will not keep strain relations and will maintain cordial relations, if any one out of the two will flout the agreement, then he will pay Rs.1,000/- to another.

18. Dhurva Singh Sidar (PW-13) has also stated in his evidence that Gauri Bai & Rajaram used to quarrel, therefore, Gauri Bai stayed at their residence for 5-6 months. Thereafter, a meeting of the community was convened and in that, the agreement (Ex.P-2) was written, that was written by him and signed by Rajaram & Gauri Bai.

19. Shiv Prasad (PW-14) & Dabela Singh (PW-18) have also stated that relations between the deceased and the accused were strain. Even the accused in his statement under Section 313 of the Cr.P.C. in reply to question No.4 has

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admitted this fact that relationship between him and his wife were strain, they used to quarrel, therefore, his wife went to her maternal house, compromise was entered on 1-4-1999 and she came to his house. Therefore, as per the prosecution evidence and statement of the accused it is established that relationship between the deceased and the accused were strain.

Second circumstance

20. Further case of the prosecution is that the accused used to doubt the fidelity of his wife and he was suspecting that Gauri Bai was having illicit relations with Dhoomdas Rawat. Ratiram (PW-1) has stated in his evidence that Dhoomdas was called by the Police and he was detained in the Police Station. Dhoomdas borrowed Rs.6,000/- from his brother (accused), out of that, an amount of Rs.3,000/- was paid by Dhoomdas to Gauri Bai, the remaining amount was due. Dhoomdas used to threaten Gauri Bai that she should tell her husband that Rs.6,000/- has been repaid, otherwise he will kill them. Daughter of Gauri Bai namely, Laxmin Bai informed him about this fact.

21. Moharlal (PW-4) has also stated in his evidence that Dhoomdas was known to him, he had heard that there was illicit relationship between Gauri Bai & Dhoomdas, once Gauri Bai left the house of the accused after quarreling with him and went to her maternal house, thereafter, she was brought back after compromise. In para 10 of his evidence he has stated that Police people were talking that Gauri Bai was having illicit relationship with Dhoomdas and he heard that.

22. Therefore, from the above evidence it is established that there was a rumour in the village that Dhoomdas was having illicit relationship with Gauri Bai, which was not liked by the accused, on account of that, they used to quarrel and Gauri Bai left for his maternal place. Ultimately, the matter was compromised and she was brought back. Therefore, the accused was doubting the fidelity of his wife.

Third circumstance

23. As far as this circumstance is concerned, Ratiram (PW-1) has stated in his evidence that the accused is his younger brother and Gauri Bai (since deceased) was his wife, his brother Rajaram informed him that Gauri Bai died on account of electrocution when she was listening radio. Perusal of merg intimation Ex.P-1 given by this witness reveals that this witness gave the merg intimation to the effect that his brother informed him that when he returned to his house from work at about 3 p.m., gate of the house was open, when he entered the house he saw that his wife was lying on the ground, the electric wire was lying near Gauri Bai and she died on account of electrocution. When this witness went to the house of his brother Rajaram, Guauri Bai was lying dead. So, based on the information given by his brother Rajaram, he gave this merg intimation that Gauri Bai died on account of electrocution.

24. Babulal (PW-17), nephew of the accused & son of Ratiram (PW-1), and Peeluram (PW-8) have also stated that the accused informed that Gauri Bai died on account of electrocution.

25. Dr. N.P. Mishra (PW-32) conducted post-mortem on the body of Gauri Bai on 18-6-2000 at about 4.40 p.m. He has stated in his evidence that on external examination of the dead body he noticed following points: -

(1) there was superficial burn on face, head and front side of neck;

(2) there was superficial burn on chest and burn injuries on supra-scapular region;

(3) hairs of armpit and both the hands were found burnt;

(4) hairs of head and skin of occipital region were not brunt;

(5) eyebrows were burnt, cornea was hazy, conjunctiva was congested;

(6) there was sub-conjunctiva haemorrhage on lateral corner of left eye;

(7) blood was oozing out of mouth & nose, tongue was protruding;

(8) fingers of both the hands were found in semi flexed condition;

(9) nails turned pale;

(10) smell of kerosene was emanating form hairs of head; and

(11) blisters were present on burnt portion of the body.

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Following injuries were found on the body: -

(1) there was abrasion on lateral corner of tongue in the size of 1 cm. x 1 x 1 m.m. and there was swelling around the injury;

(2) there was abrasion on right side of lower lip in the size of 1 cm. x 1 x $\frac{1}{2}$ cm.; there was abrasion on left side of lower lip in the size of $\frac{1}{2}$ x $\frac{1}{2}$ x $\frac{1}{4}$ cm.

(3) there was incised wound on lower part of chest and over stomach in vertical line in the size of 7 x 1.$\frac{1}{2}$ x 1.$\frac{1}{2}$" deep up to sternum bone extending up to peritoneum membrane;

(4) there was vertical abrasion above stomach on upper part of membrane line which was from nipple in the vertical line 4.$\frac{1}{2}$" x 1 x 1 cm. in length;

(5) there were three parallel abrasions on the above part of stomach near injury Nos.3 & 4;

(6) there was abrasion on the later part of vagina in the size of 1 x $\frac{1}{2}$ x $\frac{1}{2}$ cm. and clotted blood was present at the root of the injury.

On dissection of the body and on opening neck it was found that

(1) clotted blood was present on the left supra clavicular fossa in the size of 1. $\frac{1}{2}$ x 1. $\frac{1}{2}$;

(2) clotted blood was present on the right supra clavicular fossa in the size of 1. $\frac{1}{2}$ x 1. $\frac{1}{2}$" and right side of neck muscles fiber were damaged;

(3) clotted blood was present on left side of chin in the size of $\frac{1}{2}$" x 1 cm.;

(4) clotted blood was present on right angle of mandible in the size of 2.1 x 1";

(5) clotted blood was present on lower part of neck in the size of 1.$\frac{1}{2}$ x 1"; and

(6) clotted blood was present near wind pipe on left side of neck in the size of 1 x 1".

On opening scalp and cutting of skin it was found that

(1) clotted blood on right parietal region in the size of 3 x 3";

(2) skull membrane was congested;

(3) there was petechial haemorrhage on brain;

(4) 3rd rib at left side at 2" away from maxillary line was broken;

(5) 8th rib (right side) at lateral of chest was broken and clotted blood was present on account of rupture of nerve;

(6) neck & windpipe were highly congested;

(7) beneath the trachea bronchus portion was congested and few carbon particles were found in the trachea;

(8) left & right carotid artery was full of blood;

(9) there was rupture in the carotid cavity;

(10) there was incised rupture beneath injury No.3 of peritoneum membrane

(11) stomach was empty and carbon particles were present;

(12) intestine was pale;

(13) there was incised cut wound on right lob of liver in the size of 1.½ x ½ x 1"; and

(14) there was post-mortem burn inside both the thighs below vagina in the size of 3 x 1.½".

Above burn injuries were ante-mortem in nature. Injuries on neck were on account of pressure and injuries on chest & stomach were caused by sharp weapon. Burn injuries on the body were on account setting the body on fire after pouring kerosene. Injuries No.4 & 5 were caused by sharp edged pointed weapon. Blouse was burnt.

26. In cross-examination, Dr. N.P. Mishra (PW-32) has stated that cause of death was on account of pressure on neck. He reached to the conclusion that neck of the deceased was pressed after sitting on her chest and that is why, the ribs were fractured. It appears that for sexual intercourse, the deceased was asked to lie straight and in that position her neck was pressed, when she did not die on account of that, the person sat on her chest and attacked, that is why there was injury on liver and peritoneum, same was found cut. Thereafter, injuries were inflicted on vagina. There were burn injuries on vagina and both the thighs. At that time, Gauri Bai was breathing, as there

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were carbon particles in trachea & stomach. He has further stated that carbon particles which were found in the trachea could not be caused on account of burn by electric current. The death was caused not only by pressing of neck, but also by setting the deceased on fire, that is why, carbon particles were found.

27. Above medical evidence of Dr. N.P. Mishra found corroboration from inquest report Ex.P-4. Perusal of the inquest report which was prepared in the presence of Panchas reveals that all the injuries explained by the doctor were present on the body of the deceased at the time of preparation of inquest on the body of Gauri Bai. Even the Panchnama witnesses namely, Moharlal (PW-4), Chintamani (PW-7), Peeluram (PW-8), Milketan Das (PW-19), Pila Dau (PW-25), Gauribai (PW-26) & Urmilabai (PW-27) have also stated and proved the inquest report Ex.P-4. Above injuries and position of the body has not been disputed by the accused. In cross-examination of the doctor, defence has not been able to elicit from the doctor that Gauri Bai died on account of electrocution. Post-mortem and evidence of the doctor as well as the inquest report are suggestive of the fact that not only neck of the deceased was pressed, even injuries were also inflicted by weapon on chest & stomach, as a result of which there was incised wound, on account of that, ribs were fractured and there were burn injuries on thighs and vaginal part. Smell of kerosene was emanating from hairs. Burn injuries were present on the person of Gauri Bai, which were due to setting her on fire and those burn injuries were not of electrocution.

28. Therefore, above circumstantial evidence is suggestive of the fact that the death of Gauri Bai was not on account of electrocution, but on account of the injuries sustained by her, as such, the death of Gauri Bai was homicidal in nature.

Fourth circumstance

29. Investigating Officer M.M.L. Shrivastava (PW-34) has categorically stated in his evidence that on 18-6-2000 he prepared the site plan (Ex.P-15) after inspection of the site. He has further stated that on 18-6-2000 in the

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presence of witnesses he seized plain soil, blood stained and burnt pieces of hairs & blouse under Ex.P-12. He has also stated that he seized the winnowing basket stained with blood under Ex.P-11. As per the F.S.L. report Ex.P-36, blood was found in soil, pieces of blouse, hair and winnowing basket which were seized from the place of occurrence. Even though no blood was found on Dhoti of the accused as the same was washed by him just after the offence and even blood was not found on iron chopper also, as the same was rubbed after the offence, but blood was found on the spot as also on the clothes of the deceased. Smell of kerosene was emanating from the hairs of the deceased.

30. In the matter of **State of Rajasthan vs. Teja Ram and others** reported in **(1999) 3 SCC 507**, in para 27 the Apex Court held that "it cannot be said that in all cases where there was failure of detecting the origin of the blood, the circumstance arising from recovery of the weapon would stand relegated to disutility". Similarly, in the matter of **Sanjay alias Kaka vs. State (NCT of Delhi)** reported in **(2001) 3 SCC 190**, the Apex Court held that "prosecution's failure to prove origin of blood found on the pant and shirt of the accused who was alleged to have killed the deceased by inflicting dagger injuries – Held on facts, not sufficient to hold that the accused was not guilty of offence of murder".

31. Dr. N.P. Mishra (PW-32) has further stated that on 27-6-2000 on the basis of Ex.P-24 of Police Station: Dabhra, he examined following articles: -

- One winnowing basket on which there were blood spots;
- One lungi on which there were blood spots;
- One iron chopper with wooden handle the iron portion of which was rubbed and some blood spots were visible on it;
- One sickle which was pointed with a wooden handle and blood spots were visible on it;
- One plastic container with kerosene;

Pieces of burnt blouse, hairs of head on which smell of kerosene was emanating.

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32. This circumstance is also suggestive of the fact that injuries were inflicted on the body of the deceased that is why there was bleeding from the body of the deceased. This circumstance also suggests that the death of Gauri Bai was homicidal in nature.

Fifth circumstance

33. Bhursudas (PW-15) has stated in his evidence that on the fateful day he along with Rajaram went to the house of Baratram Patel to prepare thatched roof of the room of Baratram Patel and at about 3 p.m. they left the place of Baratram. Baratram (PW-21) has also stated in his evidence that on the fateful day Rajaram came to his house at about 7 a.m. and left for his house at 3 p.m.

34. Peeluram (PW-8) has stated in his evidence that Ratiram, brother of the appellant, informed him that wife of Rajaram died on account of electrocution. When he went to the house of Rajaram, Rajaram informed that his wife died on account of electrocution. The body was covered with a cloth. When people were removing the cloth, Rajaram said that cloth should not be removed.

35. As far as this circumstance is concerned, Mongrabai (PW-3) has stated in her evidence that at about 3 p.m. the accused came after taking bath, she saw that the accused was going towards the street hurriedly. She has further stated that just after Rajaram left the house, Panch & Patel came to accused house. She is neighbour of the accused. Kum. Lalitabai (PW-5) has stated in her evidence that she saw the accused going on the way, Chanchalabai was near the tube well, she was filling water and she saw that the accused was going. Chanchalabai did not said anything to Rajaram, after washing his hands Rajaram went to which side she does not know. Kum. Chanchala (PW-6) has corroborated the above evidence and stated that the accused came to the tube well and asked for water.

36. Therefore, from the evidence of Bhursudas (PW-15) & Baratram (PW-21), it is established that on the fateful day the accused along with Bhursudas went to

the house of Baratram for preparing thatched roof of the house and from there he returned at 3 p.m. to his house. Thereafter, the accused was seen leaving his house by Mongrabai (PW-3) and immediately thereafter, Panch & Patel came and saw the dead body of Gauri Bai in the house. Conduct of the accused was suspicious because when he saw his wife lying dead, why he did not inform Mongrabai (PW-3), neighbour of his house, as to how his wife has sustained homicidal injuries. Mongrabai being neighbour and in between the houses of Mongrabai & the accused, there is a partition wall height of which is hardly 2 feet, therefore, persons moving in both the houses are visible from each other's house, the accused ought to have enquired from Mongrabai as to how his wife had sustained homicidal injuries. In spite of the fact that his wife met with homicidal death, the accused did not prefer to talk to Mongrabai, he went outside and informed his nephew Babulal (PW-17) who in turn informed Ratiram, by giving false information that Gauri Bai died on account of electrocution, which was not the correct report, in fact she met with homicidal death.

37. From the above facts and circumstances, it is established that the accused came to his house at about 3 p.m. and immediately left his house, at that time, he left the dead body of his wife Gauri Bai and did not explain the circumstances to his brother and Police authorities that how Gauri Bai sustained homicidal injuries, instead of that, he gave false explanation and information to his brother Ratiram & others that Gauri Bai died on account of electrocution which has been found false as per the medical evidence and other evidence available on record.

38. Mr. Govind Ram Miri, learned counsel for the appellant, argued that on the fateful day, the accused was not at his residence, he left his house at about 7 a.m., when he returned at 3.30 p.m., he saw that his wife was lying dead near the electric wire and he was not aware who in fact was involved in the murder of his wife. There is no evidence in any manner to connect the accused with the murder of his wife.

39. But, we do not find any substance in the argument of Mr. Govind Ram Miri for the reason that in the present case, chain of circumstances is complete which unerringly pointing towards guilt of the accused only, based on the circumstantial evidence available on record, only irresistible conclusion can be drawn that the accused was the author of the crime in question. As per the evidence of Bhursudas (PW-15) & Baratram (PW-21), on the fateful day the accused went to the house of Baratram for preparing thatched roof of his house, the accused and Bhursudas (PW-15) were working there till 3 p.m., thereafter, the accused came to house, from there he went to the tube well where he washed his hands & Dhoti. He sent information to his brother Ratiram through his nephew Babulal (PW-17) that his wife died on account of electrocution. Therefore, the accused gave false information. Thereafter, villagers came and inquest report Ex.P-4 was prepared on the body of Gauri Bai by the Police Officer in the presence of Panchas in which number of different nature of injuries, smell of kerosene oil, burn injuries on vaginal part and other homicidal injuries on chest, stomach, fracture of ribs were seen. The accused has not explained as to how his wife sustained those injuries. On the contrary, he gave false information that his wife died on account of electrocution, which has been found false, based on the injuries found on the body of the deceased, as also the medical evidence. Blood was found on the earth and weapons were seized from the house of the accused. Moreover, there was kerosene smell on the hairs and body of the deceased. As per the doctor's evidence there were no symptoms of electrocution on the body of the deceased. All the injuries were found ante-mortem in nature. Relationship of the accused & the deceased was strain. The accused was doubting the fidelity of his wife that she was having illicit relations with one Dhoomdas which has been established by the evidence of the prosecution. Even villagers were talking about the said relationship. After entering into agreement Ex.P-2 with his wife in the presence of Panchas, the accused brought his wife back to his house. If all the above circumstances are taken together, cumulative effect is that the circumstantial evidence unerringly establish complicity of the accused in the murder of his wife.

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40. For the foregoing reasons, from the above circumstantial evidence it is established that the accused was the author of the crime in question. We do not find any illegality or infirmity in the judgment of the trial Court convicting the accused for committing the murder of his wife.

41. In the result, the appeal fails, same is liable to be dismissed and it is hereby dismissed.

Sd/-
L.C.BHADOO
Judge

Sd/-
Sunil Kumar Sinha
Judge

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